



Crl.OP.No.18501 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 02.08.2024

CORAM

THE HONOURABLE DR.JUSTICE G.JAYACHANDRAN

Crl.OP.No.18501 of 2024

and

Crl.MP.No.10960 of 2024

Mariyappan

... Petitioner

Vs.

State rep.by
Sub Inspector of Police,
Palladam Police Station,
Chennai.

... Respondent

Prayer: Criminal Original Petition is filed under Section 482 of Cr.P.C, to set aside the order passed in C.M.P.No.1694 of 2024 in STC.No.2525 of 2017 dated 25.03.2024 on the file of Judicial Magistrate, Palladam dismissing the petition to cross PW1-3 by the petitioner.

For Petitioner : Mr.S.Gunaseelan

For Respondent : Mr.S.Udaya Kumar
Government Advocate (Crl. Side)



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ORDER

The petitioner herein is the accused in S.T.C.No.2525 of 2017 pending on the file of Judicial Magistrate Court, Palladam.

2. The examination of witnesses in this case commenced after six years. P.W.1 to P.W.3 were examined in chief on 07.12.2023. The petitioner did not cross-examine them. After few adjournments, the matter was posted for examination of P.W.4 on 25.03.2024 and after the examination of P.W.4, application under Section 311 of Cr.P.C filed to re-call P.W.1 to P.W.3. The Court below has dismissed the application stating that when the witnesses were present, the accused not ready to cross examine the witnesses, no defer petition under Section 309 of Cr.P.C was filed. After three months, the petition to re-call filed.

3. As per guidelines of Hon'ble Supreme Court, the trial Court has dismissed the application filed under Section 311 of Cr.P.C.

4. The learned counsel appearing for the petitioner states that on 07.12.2023, the learned counsel was not doing well. Therefore, not able to cross-examine the witnesses. To prove the defence, it is essential to cross-examine P.W.1 to P.W.3.

5. From record, this Court finds that after examination of P.W.4,



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the Investigating Officer, the prosecution has closed its evidence. The matter is adjourned to for further proceedings. The petitioner had filed an application for re-call belatedly. If the reasons assigned in the re-call petition is genuine, the petition ought to have been filed soon after examination of P.W.1 to P.W.3 on 07.12.2023.

6. Having failed to examine the witnesses, when they were present and having failed to file an application to re-call immediately, the trial Court has rightly dismissed the application filed under 311 of Cr.P.C.

7. In view of the above, this Court finds no perversity or illegality in the order of the trial Court to interfere under Section 482 of Cr.P.C. Hence, this Criminal Original Petition stands dismissed. Consequently, the connected miscellaneous petition is closed.

02.08.2024

Vv

To

1. The Judicial Magistrate,
Palladam
2. The Sub Inspector of Police,
Palladam Police Station,
Chennai.



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3.The Public Prosecutor,
High Court of Madras.



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Dr.G.JAYACHANDRAN,J.

Vv

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